

REMARKS

Applicant respectfully requests entry of the amendments and remarks submitted herein. Claim 23 has been amended. Therefore, claims 1, 2, 8-23, 88, 240 and 241 are pending.

Rejection under 35 U.S.C. §112, Second Paragraph

The Examiner rejected claim 23 under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention.

Claim 23 has been amended to recite only formula (I). Accordingly, withdrawal of the rejection of claim 23 is respectfully requested.

Rejection under 35 U.S.C. §103(a)

The Examiner rejected claims 1-2, 8-23, 240 and 241 under 35 USC §103(a) as being unpatentable over Tian (Tian et al., "Polymer Preprints" (2002) 43(2); 719-720) in view of Uhrich (WO 03/005959).

This rejection is respectfully traversed. The Supreme Court set out the analysis for patentability under 35 USC 103(a): the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined (*see, e.g., Graham v. John Deere Co.*, 383 U.S. 1 (1966) and *KSR International Co. v. Teleflex Inc.*, 127 S. Ct. 1727 (2007)).

The Examiner states at pages 5-6 of the Office Action that while Tian discloses compounds of the structure depicted by formula III of instant claim 22, Tian does not specifically disclose which molecules may be encapsulated within the micelles formed by these compounds. In particular, Tian does not teach the use of the compounds to remove low-density lipoprotein or to treat atherosclerosis. To remedy this deficiency the examiner relies on Uhrich.

The compounds of Uhrich differ significantly in structure from the compounds recited in the instant claims. The compounds of Uhrich comprise a polyfunctionalized core such as a polyol or a polyacid. This core is covalently linked to a plurality of amphiphilic groups such as acylated polyol polyether moieties. The compounds recited in the instant claims lack this "core".

The compounds recited in the instant claims are terminated on the end opposite the polyether with a carboxy group or an acylated polyol (when A is absent). In contrast the compounds of Uhrich are terminated on the end opposite the hydrophilic tail (e.g. polyether portion of the amphiphilic group) with the above-mentioned polyol or polyacid. Thus, there are significant structural differences between the compounds of Uhrich and the compounds recited in the instant claims (as well as structural differences between the micelles). For these reasons, Applicant disagrees with the Examiner's conclusion at page 2 (final paragraph) of the Office Action that the compounds of Uhrich are essentially polymeric forms of the compounds recited in the instant claims and thus share significant structural similarity.

Since the compounds are structurally different one skilled in the art would reasonably expect the compounds to possess different properties (e.g. physical, chemical) including sequestration properties. Furthermore, there is no suggestion, teaching or motivation in Uhrich to indicate that removal of the polyol or polyacid core of the compounds of Uhrich would result in a compound that would operate in the manner recited in the instant claims. Accordingly, one would not have a reasonable expectation of success in sequestering LDL or inhibiting atherosclerosis or atherosclerotic development after modifying the compounds of Uhrich in a manner to arrive at the compounds as recited in the instant claims. Therefore, Applicant respectfully submits that the Office Action fails to state a *prima facie* case of obviousness with respect to claims 1, 2, 8-13, 240 and 241 and that the claims are not obvious in view of the cited documents. Accordingly, withdrawal of the rejection is appropriate.

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Serial No. : 10/587,678
Filed : May 1, 2007
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Attorney's Docket No.: 01435.035US1

CONCLUSION

The Examiner is invited to contact Applicant's Representative at the below-listed telephone number if there are any questions regarding this Response or if prosecution of this application may be assisted thereby. If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-3503. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extension fees to Deposit Account 50-3503.

Respectfully submitted,

Kathryn E. Uhrich et al.

By their Representatives,

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Date:

August 19, 2009

By:

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